

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Rail One USA Corp.,**  
Appellant,

**v.**

**City of Clinton Board of Review,**  
Appellee.

**ORDER**

**Docket No. 14-102-0353**  
**Parcel No. 88-11320005**

On February 11, 2015, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Rail One USA Corporation was represented by attorney Charles Coulter of Stanley, Lande & Hunter, in Muscatine, and participated by telephone. The City of Clinton Board of Review was represented by attorney J. Drew Chambers of Holleran, Shaw, Murphy, & Stoutner, in Clinton, and participated in person. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Rail One USA Corp. is the owner of industrial property located at 4275 South 59th Street, Clinton, Iowa. The subject property is a 26.95-acre site improved by a heavy manufacturing facility used to manufacture concrete railroad ties. It was constructed in 2013 and has 38,742 square-feet of gross building area. The property is also improved by 3 hopper bins, an equipment building, 61,000 square-feet of asphalt paving, 13,032 square-feet of concrete paving, a railroad spur, a craneway track, and a sleeper foundation. Its January 1, 2014, assessment was \$5,797,960, representing \$1,128,400 in land value and \$4,669,560 in improvement value.

Rail One protested the assessment to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(1)(b) asserting the assessment included components that were not assessable. It sought to have these components treated as exempt machinery used in manufacturing under sections 427A.1(1)(e) and 427B.17(3). The property it asserted was exempt was valued at \$1,977,500, and would have reduced the improvement value to \$2,692,060.

In addition, Rail One also appeared to assert that the Assessor has not applied sufficient functional and economic obsolescence and, as a result, the property was valued in excess of its market value. Rail One believed the obsolescence factors further reduced the property's value by 25% to \$2,019,060.

The Board of Review denied the protest. Rail One then appealed to this Board reasserting its claims.

At the hearing before this Board, Rail One amended its claim. The chart below shows the items that Rail One now contends are exempt items of machinery.

Location	Description	Assessment
Item 1	Craneway in production facility	\$ 70,120
Addition 5	ECO Frog Environmental concrete cleaning station	\$ 48,460
Yard Extra	Railroad spur	\$ 266,560
Yard Extra	Exterior Craneway Track	\$ 281,260
Yard Extra	Sleeper Foundation used for storing & curing railroad ties	\$ 1,191,990
	<b>Revised Total</b>	<b>\$ 1,858,390</b>

Rail One filed a legal brief, but did not offer any testimony or exhibits at hearing.

Darryl Risting from Vanguard Appraisals testified on behalf of the Board of Review. Risting stated he prepared the assessment in March 2014 and did not include any machinery or equipment in it. He noted he excluded the conveyor and the concrete mixer. While Risting assessed the concrete craneway tract, he did not assess the crane itself. He assessed the sleeper foundation, but did not

assess the sleeper rails (railroad ties) stored on the foundation. Risting stated he assessed the rail spur because it is listed in the IOWA REAL PROPERTY APPRAISAL MANUAL.

### ***Conclusions of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3); *Wendling Quarries, Inc. v. Property Assessment Appeal Bd.*, 2015 WL 799851 (Iowa Ct. App, Feb. 25, 2015). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

Rail One claims the exterior and interior craneway, concrete cleaning station, railroad spur, and sleeper foundation should be considered machinery used in manufacturing that are exempt from

taxation under Iowa Code section 427A.1(1)(e). In addition, Rail One argues that obsolescence factors further reduces the property's market value. The Board of Review believes the items at issue were either excluded from the assessment (concrete mixer and conveyor), or do not qualify as machinery (craneway, cleaning station, rail, track, and sleeper foundation), and therefore are taxable.

In an exemption case, the Appeal Board “strictly construe[s] a statute and any doubt about an exemption is resolved in favor of taxation.” *Carroll Area Child Care Center, Inc. v. Carroll Cnty. Bd. of Review*, 613 N.W.2d 252, 254 (Iowa 2000); *Wendling Quarries*, 2015 WL 799851; *Splash Enterprises, L.C. v. Polk Cnty. Bd. of Review*, 807 N.W.2d 157, 2011 WL 3925415, at \*3 (Iowa Ct. App. 2011). It is Rail One's burden to prove it is entitled to the benefit of the exemption. § 441.21(3); *Sherwin-Williams Co. v. Iowa Dep't of Revenue*, 789 N.W.2d 417, 424 (Iowa 2010).

In determining whether the items are machinery that may qualify for an exemption, this Board must engage in an analysis to determine if the items fall under Iowa Code section 427A.1(1)(e) and 427B.17(3). Machinery includes equipment and devices, both automated and non-automated, which is used in manufacturing as defined in Iowa Code section 428.20. See *Deere Manufacturing Co. v. Beiner*, 247 Iowa 1264, 78 N.W.2d 527 (1956).

The Iowa Supreme Court held that common law fixtures are included within the scope of the property tax exemption for machinery used in manufacturing in section 427A.1(1)(e). *Griffin Pipe Products Co., v. Board of Review of County of Pottawattamie*, 789 N.W.2d 769, 775 (Iowa 2010). The court interpreted section 427A.1(1)(e) to include all machinery, attached or unattached, fixtures or movable items. *Id.* According to Black's Law Dictionary (10th ed. 2014):

Fixtures are defined as personal property that is attached to land or a building and that is regarded as an irremovable part of the real property, such as a fireplace built into a home. Historically, personal property becomes a fixture when it is physically fastened to or connected with the land or building and the fastening or connection was done to enhance the utility of the land or building.

The *Griffin* Court noted that a plant water systems, air separators, dust collectors, and a truck-turn-around were held to be machinery used in a manufacturing in *Northwestern States Portland Co. v. Board of Review*, 244 Iowa 720, 726-29, 58 N.W.2d 15, 19-21 (1953). Additionally, the *Griffin* Court recognized that dry kilns, smokestacks, cooling towers, a water intake facility, a holding shell, silos, and a control room have been found to be machinery used in manufacturing in other states' courts. *Griffin*, 789 N.W.2d at 774 (internal citations omitted). The implication of *Griffin* is that property shown to be "machinery used in a manufacturing establishment" is subject to exemption, even if the property would normally be considered a common law fixture subject to taxation as real property.

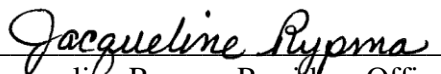
Here, the question is whether the railroad spur, exterior and interior craneway, concrete cleaning station, and sleeper foundation identified by Rail One are machinery used in a manufacturing establishment. Rail One did not present any evidence to demonstrate the disputed items are machinery used in a manufacturing establishment. It presented no testimony or exhibits, such as detailed descriptions, diagrams, or photographs of the disputed property, to establish the facts necessary to conclude the items at-issue are *machinery*. While Rail One's legal brief attempts to introduce facts regarding the property, statements by an attorney in a brief should refer to admitted evidence in the record and the brief is not, by itself, evidence on which this Board can rely. *In re Adoption of Blanchard*, 179 N.W.2d 441 (Iowa 1970) (citing *Morrow v. Smith*, 145 Iowa 514, 124 N.W. 316 (1910)); *Homolka v. Drahos*, 247 Iowa 525, 529, 74 N.W.2d 589, 591 (Iowa 1956). The testimony from the Board of Review's witness indicated the assessment did not include any exempt machinery. Ultimately, Rail One did not present any evidence from which this Board can draw a different conclusion.

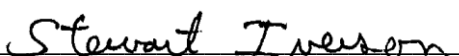
Therefore, we find there is insufficient evidence to conclude that Rail One's disputed property is machinery used in a manufacturing establishment which should be exempt under sections 427A.1(1)(e) and 427B.17(3).


Turning to Rail One's argument that the assessment fails to adequately consider the property's functional and economic obsolescence, we also find an absence of evidence to support the claim. In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Beyond the assertion that the subject property is assessed for more than its fair market value, Rail One did not submit any evidence to establish the property's assessment is excessive or to show the property's correct value.

THE APPEAL BOARD ORDERS that the January 1, 2014, assessment as determined by the Clinton City Board of Review is affirmed.

Dated this 5th day of May, 2015.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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